

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Permanent Addition of USPS Connect Local Mail
Price Category to the Market Dominant Product List

Docket No. MC2023-12

PUBLIC REPRESENTATIVE COMMENTS
ON POSTAL SERVICE REQUEST TO CONVERT
USPS CONNECT LOCAL MAIL TO A PERMANENT OFFERING

(Issued December 9, 2022)

I. INTRODUCTION

On November 9, 2022, the Postal Service filed a request, pursuant to 39 U.S.C. § 3642 and 39 C.F.R. part 3040, subpart B and 39 C.F.R. § 3045.18, requesting to add USPS Connect™ Local Mail, currently an experimental product, as a permanent product offering under First-Class Mail Flats.¹ For the reasons discussed below, the Public Representative supports the Postal Service's Request.

¹ United States Postal Service Revised Request to Convert USPS Connect Local Mail to a Permanent Offering, November 9, 2022 (Request). The Postal Service filed a similar request on October 11, 2022. See United States Postal Service Request to Convert USPS Connect Local Mail to a Permanent Offering, October 11, 2022. However, the Commission dismissed without prejudice the Postal Service's filing because it did not contain the information required by 39 U.S.C. § 3642, 39 C.F.R. part 3040, subpart B and 39 C.F.R. § 3045.18. See Order Dismissing without Prejudice Postal Service's Request to Convert USPS Connect Local Mail Market Test to a Permanent Offering, October 17, 2022, at 2. The instant Request represents an updated filing of the Postal Service's October 11, 2022 filing.

II. BACKGROUND

On January 4, 2022, the Commission authorized the Postal Service to proceed with a 2-year market test of USPS Connect™ Local Mail.² USPS Connect™ Local Mail provides document delivery for business mailers who send important documents locally and with regular frequency. Order No. 6080 at 2; Market Test Notice at 1. As the Postal Service explained, the market test was intended to target customers like law firms, medical offices, and real estate firms that mail multiple documents a week. Market Test Notice at 3. The Postal Service maintained that the product would be an “attractive option for local mailers because it is significantly different from” and “priced more economically” than” other products currently offered by the Postal Service. *Id.* at 4.

Currently, under the terms of the market test, USPS Connect™ Local Mail is accepted at destination delivery units (DDUs) or by carrier pick-up in the line-of travel (LOT).³ The product is offered for same-day or next-day delivery, 6 days per week, with customers receiving same-day or next-day delivery based on whether they have entered their mail within the critical entry time. Market Test Notice at 2. Because USPS Connect™ Local Mail will bypass end-to-end transportation costs, the Postal Service offers USPS Connect™ Local Mail for \$2.95 for a Letter- or Flat-size mailpiece weighing up to 13 ounces. *Id.* Additionally, the documents mailed must be paper-based, may contain personal information, and receive free packaging and tracking. *Id.* at 3, 4.

As noted above, on November 9, 2022, the Postal Service filed a request to add the subject of its market test, USPS Connect™ Local Mail, as a permanent product

² Docket No. MT2022-1, Order Authorizing Market Test of Experimental Product – USPS Connect Local Mail, January 4, 2022 (Order No. 6080). See also Docket No. MT2022-1, United States Postal Service Notice of Market Test of Experimental Product – USPS Connect Local Mail, November 10, 2021 (Market Test Notice).

³ *Id.* at 2. LOT means the USPS Connect™ Local Mail piece can be handed to the postal carrier at the time the carrier is delivering mail to the address. See MT2022-1, Response of the United States Postal Service to Commission Information Request No. 1, November 30, 2021 (Responses to CIR No. 1), at question 1.a. The Postal Service describes in detail the process each customer may use in order to send a USPS Connect™ Local Mail piece. See *id.*, question 1.d.

offering under First-Class Mail Flats. See *generally* Request. On November 14, 2022, the Commission issued an order establishing the docket and providing interested persons an opportunity to comment.⁴

III. POSTAL SERVICE REQUEST

The Postal Service asserts that the market test has proven successful, and it now seeks to convert USPS Connect™ Local Mail into a permanent product as a price category for First-Class Mail Flats and listed in the Mail Classification Schedule (MCS) at section 1115. Request at 2. The Postal Service indicates that the permanent product will have the same characteristics as the market test: *i.e.*, (1) be targeted at locally-focused businesses such as law firms, real estate-related companies, and medical offices, (2) provide same-day or next-day local delivery for documents under certain entry requirements,⁵ (3) be offered through Click-N-Ship and USPS AFI, (4) charged a flat rate price of \$2.95, and (5) offer packaging and tracking free of charge. *Id.* 2-3. The Postal Service maintains that the USPS Connect™ Local Mail product meets all the conditions in 39 U.S.C. § 3642 and 39 C.F.R. § 3045.18 for adding a non-experimental product offering based on an experimental product to the Market Dominant product list. Request at 2-6.

Along with its Request, the Postal Service filed four attachments: Attachment A describes changes to the Mail Classification Schedule (MCS), Attachment B includes USPS Connect™ Local Mail market test's quarterly data collection reports, Attachment

⁴ Notice and Order Concerning Revised Request to Convert USPS Connect Local Mail Market Test to a Permanent Offering, November 14, 2022 (Order No. 6326).

⁵ Specifically, the Postal Service indicates that customers “will be able to enter First-Class Mail mailpieces close to their final destinations at certain designated entry units or, in select locations, will be able to arrange pick-up of mailpieces by their USPS carrier in line-of-travel. Documents accepted by the Postal Service at participating designated entry units by 7 a.m. each day will be eligible for same-day delivery, while mailpieces received after 7 a.m. at participating designated entry units or by carrier pick-up in line-of-travel will be delivered the following day.” Request at 2.

C includes the product's approval by the Board of Governors, and Attachment D is the Postal Service's Statement of Supporting Justification relating to its Request.

IV. PUBLIC REPRESENTATIVE ANALYSIS

A. Compliance with 39 U.S.C. § 3642

The addition of new products to the Market Dominant or Competitive product lists is authorized by 39 U.S.C. § 3642. See 39 U.S.C. § 3642. The Market Dominant product category consists of those products for which the Postal Service can set the price substantially above costs, raise prices significantly, decrease quality, or decrease output without risking significant loss of business to other firms.⁶ *Id.* Pursuant to 39 U.S.C. § 3642(b)(1), the Postal Service identifies USPS Connect™ Local Mail as a Market Dominant product. Request, Attachment D at 2. The Postal Service asserts that “firms offering similar products are distinguishable to a sufficient degree that the Postal Service believes that USPS Local Connect™ Mail currently operates largely in a distinct market unto itself.” *Id.* at 2. It also notes that the product is currently subject to the letter monopoly and “hence must be categorized as [M]arket [D]ominant for that reason.” *Id.*; *id.* at 7. Furthermore, the Public Representative points out that Commission has previously found that the experimental version of USPS Connect™ Local Mail was appropriately classified as Market Dominant. Order No. 6080 at 14-15. The Commission's previous finding is significant because the experimental and non-experimental products appear to be a “one-to-one” comparison with the same pricing, size and weight requirements, and mail entry requirements.⁷ For these reasons, the Public Representative agrees with the Postal Service's classification of this product.

Additionally, the Postal Service's Request must comply with the three considerations of 39 U.S.C. § 3642(b)(3): 1) the availability and nature of private sector

⁶ The Competitive category consists of all other products. 39 U.S.C. § 3642(b)(1).

⁷ Compare Market Test Notice 1-3 and Request at 2-3; see also Request at 4.

enterprises engaged in delivering the product, 2) the views of those using the product, and 3) the likely impact on small business concerns. 39 U.S.C. § 3642(b)(3).

The Postal Service states that private sector enterprises and their same-day or next-day delivery services are distinguishable from USPS Connect™ Local Mail for several reasons. Request, Attachment D at 3. It notes that the “closest comparison” would be local courier and messenger services, which, like USPS Connect™ Local Mail, offer express delivery services that are locally focused. *Id.* at 4. However, it further notes that those products are priced at a much higher price point than USPS Connect™ Local Mail because those products are “on-demand” products with “direct point-to-point service and customized pick-up and drop-off.” *Id.* Thus, the Postal Service maintains that USPS Connect™ Local Mail is “quite distinct from most local courier services, having stricter parameters,^[8] no on-demand or customization options, and no rapid, direct point-to-point services.” *Id.*

The Postal Service also compares its product to expedited delivery options offered by the United Parcel Service, Inc. (UPS) and Federal Express (FedEx). *See id.* at 4-5. First, it notes that neither competitor offers a similar same-day service and that the similar next-day service has a significantly higher rate than USPS Connect™ Local Mail. *Id.* at 4. Second, it notes that these competitors offer services nationally, whereas USPS Connect™ Local Mail is “purely a local delivery option.” *Id.* at 5. The Postal Service maintains that, both in terms of pricing and service options, USPS Connect™ Local Mail is different than any comparable services offered by either local couriers or national competitors. The Postal Service maintains that USPS Connect™ Local Mail “is not designed to directly compete” with any of the above-described services and “is not a direct substitute for any of them.” *Id.* at 8.

⁸ The stricter parameters referred to by the Postal Service relates to the requirement that customers must drop off USPS Connect™ Local Mail at designated entry units only or conform to carriers’ existing line-of travel. *Id.*

Based on its description of USPS Connect™ Local Mail and comparable services, the Public Representative states that the Postal Service's assessment that USPS Connect™ Local Mail is distinct from private sector offerings appears reasonable.

Next, the Postal Service describes the views of various users of USPS Connect™ Local Mail, indicating the information was developed from Postal Service sales staff questionnaires and requests for feedback gathered by market test participants. *Id.* at 9, n.7. In its Response to CHIR No. 1, the Postal Service notes that the feedback gathered was from “four lead USPS Sales team members” who has the “most experience” selling the product and is “entirely anecdotal.”⁹ However, it maintains that the information “is the best reflection of local businesses’ response” to the product and that more traditional surveys, given the limited number current customers, were “unlikely to generate a statistically significant response rate.” *Id.* It explains that local banks and mortgage companies use the service to send correspondence to customers and that one financial institution considered the service “much safer” than employee deliveries because postal workers use marked vehicles and are in uniform. Request, Attachment D at 9. The Postal Service indicates physicians use USPS Connect™ Local Mail to send health records to patients and are “less concerned about confidentiality” when records are delivered by the Postal Service compared to local couriers. *Id.* The Postal Service also indicates that attorneys enjoyed USPS Connect™ Local Mail tracking services compared to local couriers because it the product’s tracking scans offer more complete assurance of delivery. *Id.* at 9-10. Finally, the Postal Service notes that USPS Connect™ Local Mail customers appreciate the cost savings aspect of the product compared to local couriers and national competitors. *Id.* at 9.

Finally, as it relates to the impact on small businesses, the Postal Service states that USPS Connect™ Local Mail is, in fact, designed for small businesses such as small law practices, doctors’ offices, and real estate firms, implying there would be a positive

⁹ Response of the United States Postal Service to Chairman’s Information Request No. 1, December 5, 2022 (Response to CHIR No.1), question 7.a.

impact on such businesses. *Id.* at 10. In terms of the impact on small business competitors like local couriers, the Postal Service notes that the product would not create an unfair or inappropriate advantage because of the pricing and service differences between USPS Connect™ Local Mail and local courier offerings as discussed above. *Id.*

Based on the discussion above, the Public Representative states that the Request appears to comply with the applicable portions of 39 U.S.C. § 3642.

B. Compliance with 39 C.F.R. part 3040, subpart B

Subpart B of 39 C.F.R. part 3040 outlines the requirements of product list modifications initiated by the Postal Service, and more specifically, 39 C.F.R. § 3040.131 describes the contents required by any request, while 39 C.F.R. § 3040.132 outlines the information that must be included in the Postal Service's Statement of Supporting Justification. *See generally* 39 C.F.R. part 3040, subpart B; *see also* 39 C.F.R. § 3040.131; 39 C.F.R. § 3040.132.

In the instant docket, applicable sections of 3040.131 require: 1) the name, and class if applicable, of each product that is the subject of the request; 2) a copy of the Governor's decision supporting the request; 3) an indication of whether the request proposes to add, remove or transfer a product from a product list; 4) a Statement of Supporting Justification and; 5) a copy of the applicable sections of the Mail Classification Schedule and the proposed changes. *See generally* 39 C.F.R. § 3040.131.

The Postal Service has clearly indicated that USPS Connect™ Local Mail is a Market Dominant product that it seeks to add to the Market Dominant product list as a price category under First-Class Mail Flats. In addition, as noted above, Attachments A, C and D contain proposed MCS changes, a copy of the Governors' Decision approving the product and a Statement of Supporting Justification, respectively.

As noted above, the Public Representative acknowledges that the Statement of Supporting Justification has its own requirements outlined in 39 C.F.R. § 3040.132. The applicable sections of 3040.132 require: 1) an explanation of why the product list change is not inconsistent with the applicable portions of 39 C.F.R. part 3040 and any applicable Commission directive or order, 2) an explanation of why the product list change is not inconsistent with the applicable criteria of Chapter 36 of title 39 of the United States Code, 3) an explanation of whether the product is covered by the postal monopoly, 4) a discussion of the same factors in 39 U.S.C. § 3642(b)(3), and 5) any other data or information necessary to fully inform the Commission of the nature, scope, significance, and impact of the product list change. See *generally* 39 C.F.R. § 3040.132. The Public Representative addresses only those requirements that are not already addressed in other sections of these comments.¹⁰

First, the Postal Service explains that addition of USPS Connect™ Local Mail as a permanent product is not inconsistent with 39 C.F.R. part 3040 or other Commission directives and orders because it furthers the Postal Service business strategy moving forward. Request, Attachment D at 1. The Postal Service notes that the product “has demonstrated a strong growth trajectory; is a key component in the USPS Connect™ suite of products; and meets the Postal Service’s goal of “better serv[ing] small and local business in a way that increase revenue, creates efficiencies, and improves the Postal Service’s brand.” *Id.*

Second, the Postal Service explains that the addition of USPS Connect™ Local Mail is consistent with chapter 36 of title 39 of the United States Code because, among other things, it is consistent with several objectives in 39 U.S.C. § 3622(b). See *generally id.* at 2-3. It notes that the product “streamlines the delivery of certain types of local mail by encouraging customers to drop mail intended for local delivery at designated entry units,” consistent with 39 U.S.C. § 3622(b)(1). See Request,

¹⁰ For example, that USPS Connect™ Local Mail is covered by the postal monopoly, and the factors that make up 39 U.S.C. § 3642(b)(3), are addressed above. See section IV.A., *supra*.

Attachment D at 2; 39 U.S.C. § 3622(b)(1). It also notes the product's flat price, and size and weight requirements, create predictable and stable rates consistent with 39 U.S.C. § 3622(b)(2). See Request, Attachment D at 2-3; 39 U.S.C. § 3622(b)(2). The Postal Service maintains that the product enhances services standards by adding same-day or next-day service, which enhances the value of postal service to end customers and improves the speed and frequency of local deliveries, consistent with 39 U.S.C. § 3622(b)(3). See Request, Attachment D at 3; 39 U.S.C. § 3622(b)(3). Finally, the Postal Service states that the product is intended to increase revenue and help assure its financial stability, consistent with 39 U.S.C. § 3622(b)(5). See Request, Attachment D at 3; 39 U.S.C. § 3622(b)(5). It notes the product is projected to cover its attributable cost, ensuring healthy cost coverage, and has the potential to capture "as-yet untapped mail volumes by addressing a gap in current offerings." See Request, Attachment D at 3.

The Public Representative states that the Postal Service's assertions appear reasonable, and that material provided by the Postal Service's Statement of Supporting Justification adequately satisfies 39 C.F.R. § 3040.132. Thus, based on the discussion above, the Public Representative states that the Request complies with the applicable portions of 39 C.F.R. part 3040, subpart B.

C. Compliance with 39 C.F.R. § 3045.18

Pursuant to 39 C.F.R. § 3045.18, the Postal Service may request to add a non-experimental product or price category to a product list based on a current experimental product but must provide additional information. See 39 C.F.R. § 3045.18. Such a request must comply with 39 U.S.C. § 3642 and 39 C.F.R. subpart B, which the Public Representative has indicated that it does. See 39 C.F.R. § 3045.18(a). Further, the Postal Service acknowledges, pursuant to 39 C.F.R. § 3045.18(b), that USPS Connect™ Local Mail "offers the same service as the current experimental product described as USPS Connect™ Local Mail approved in Docket No. MT2022-1." Request at 3-4. Thus, the Postal Service's request must include the information described in 39

C.F.R. § 3045.18(c) and: (1) identify the market test and docket number that the proposed non-experimental product or price category is based on; (2) explain the relationship between the proposed non-experimental product or price category and market test or experimental product; (3) identify any assumptions from the market test that the request uses or is based on; (4) include all data from data collection reports filed during the market test in the financial model supporting the request, or separately identify and explain any differences between the data collection reports filed during the market test and the data used in the financial model supporting the request; and (5) quantify the product specific costs associated with the development of the market test; that is, costs incurred before the market test was implemented. 39 C.F.R. § 3045.18(c).

Pursuant to 39 C.F.R. § 3045.18(c)(1), the Postal Service indicates the non-experimental product that the permanent product is based upon is USPS Connect™ Local Mail, approved in Docket No. MT2022-1. Request at 4; 39 C.F.R. § 3045.18(c)(1).

Pursuant to 39 C.F.R. § 3045.18(c)(2), the Postal Service explains that the relationship between the experimental product and the non-experimental product is “one-to-one.” Request at 4; 39 C.F.R. § 3045.18(c)(2). The Public Representative acknowledges that the pricing and size and weight limitations appear to be the same, as well as the mail entry requirements discussed above.

Pursuant to 39 C.F.R. § 3045.18(c)(3), the Postal Service notes its assumption that “the market for USPS Connect™ Local Mail that has persisted over the course of the market test will continue to grow into the permanent product phase” and provides the product’s revenue information from the fiscal year in which the market test was in operation, indicating continuous product growth. Request at 5; 39 C.F.R. § 3045.18(c)(3).

Pursuant to 39 C.F.R. § 3045.18(c)(4), Attachment B to the Request includes all data collection reports filed over the course of the market test. Request at 5; *see also id.*, Attachment B; 39 C.F.R. § 3045.18(c)(4).

Finally, pursuant to 39 C.F.R. § 3045.18(c)(5), the Postal Service explains that the product-specific costs associated with the USPS Connect™ Local Mail market test were \$577,837. Request at 5; 39 C.F.R. § 3045.18(c)(5). The Postal Service asserts that, at current price of \$2.95, the product covers its attributable costs and contributes to institutional costs, and that “the continuation of the offering as a permanent price category will allow the Postal Service to recoup its developmental costs.” Request at 5.

The Public Representative also notes that, pursuant to 39 C.F.R. § 3045.18(d), the Postal Service’s Request was timely filed.

Based on the discussion above, the Public Representative states that the Request complies with the applicable portions of 39 C.F.R. § 3045.18.

V. SUMMARY

The Public Representative generally supports USPS Connect™ Local Mail's addition to the Market Dominant product list as a permanent price category in First-Class Mail Flats. She finds that the Postal Service's Request appears to comply with 39 U.S.C. § 3642 and 39 C.F.R. part 3040, subpart B and 39 C.F.R. § 3045.18 and that the information discussed by the Postal Service appears reasonable. However, she notes that a certain degree of reliance is required as to the accuracy of some of the information submitted. For example, the financial data submitted as it relates to USPS Connect™ Local Mail's true potential for growth and the likelihood that the product will cover its attributable costs can only be confirmed in the future, although the Commission's ability to review the product's compliance as part of each Annual Compliance Determine mitigates much of the potential financial risk associated with the product at the outset. In addition, the information submitted as it relates to USPS Connect™ Local Mail's impact on small businesses, the potential of an unfair or inappropriate advantage, and the views of users of the product appear reasonable. However, should adverse comments be received from third parties that challenge any of the Postal Service's assertions or conclusions, the Commission should take those into account as part of its review.

Respectfully Submitted,

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